

Testimony of

# EJ Pico

April 22, 2004

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STATEMENT

OF

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REGARDING A HEARING ON

STATE AND LOCAL AUTHORITY to ENFORCE IMMIGRATION LAW: EVALUATING A UNIFIED APPROACH FOR STOPPING TERRORISTS

BEFORE THE

SENATE SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY  
AND CITIZENSHIP COMMITTEE ON THE JUDICIARY

April 22, 2004  
2:30 PM  
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Mr. Chairman and distinguished Members of the Committee. I would like to begin by thanking this Committee for the opportunity to represent the 35 state and local officers throughout Florida, who are designated to serve in the first of its kind 287(g) Cross Designation Program. All of these men and women have served on Florida's Regional Domestic Security Task Forces, and are committed to a partnership with federal law enforcement to ensure the domestic security of our citizens. These partnerships are vital in protecting our citizens against future terrorist attacks.

After the atrocities of September 11, 2001, the State of Florida quickly assessed its abilities to detect and respond to domestic security and terrorist events. Governor Jeb Bush directed then FDLE Commissioner James T. (Tim) Moore and Florida Department of Emergency Management, Director Craig Fugate to lead Florida's efforts in determining its preparedness. Within one month, over 1,000 agencies spanning Law Enforcement, Fire, Emergency Management, Health and private sector were polled in this project. From these efforts, the State of Florida created seven regional domestic security task forces (RSDTF's), generally coinciding with the FDLE Regional Operations Centers. These task forces have served as the cornerstone of Florida's efforts in domestic security and anti-terrorism efforts since that time, and have achieved great success.

In November 2001, the Florida Legislature met in special session and codified the domestic security task force structure into statute. These task forces serve under the policy direction of a multi-disciplined oversight board and at the regional level are co-chaired by a sitting sheriff and the FDLE Operations Regional Director.

From the very beginning, these regional domestic security task forces have been engaged in ongoing intelligence and investigative operations. The RSDTF concentrates full-time on domestic security and counter terrorism specific investigative efforts. These task forces have had on-going and active working relationships with our federal partners to include the FBI, the INS, U.S. Customs Service now Immigrations and Customs Enforcement (ICE), and other federal law enforcement partners dictated by individual investigative need. From the very beginning, our investigative efforts would encounter alien residents both legal and illegal. Many times it took far too long to get immigration related questions answered, due in some cases to a lack of available federal resources. For example, in the region which I personally represent, Southwest Florida, no INS agent was assigned full-time anywhere between Miami and Tampa.

As a result of these difficulties, the Florida Department of Law Enforcement initiated negotiations with the Immigration and Naturalization Service to establish its 287(g) Cross Designation Program. In July 2002, a Memorandum of Understanding was entered into granting 35 state and local officers in Florida 287(g) authority as signed by Attorney General John Ashcroft and Florida Governor Jeb Bush. In December 2003, this Memorandum of Understanding was renewed as signed by Department of Homeland Security Under Secretary Asa Hutchinson and Florida Governor Jeb Bush.

The Memorandum of Understanding outlines a number of terms and conditions for this 287(g) authority. All Regional Domestic Security Task Force members assigned to the Cross Designation Program had to commit to serve a minimum of one year under this authority. All members were subject to a full background not only from the RSDTF, but also INS/ICE. All training was provided by INS/ICE and was carefully monitored. Under the terms of this Memorandum of Understanding, all investigative efforts undertaken under this Cross Designation authority must not only be supervised by an INS/ICE officer, they must have a nexus to domestic security and counter terrorism.

All 35 state and local designees attended a six-week intensive training course pursuant to this Memorandum of Understanding in Orlando, Florida during July and August 2002. Subsequent to graduation, the INS assigned a supervisory special agent full-time to each RSDTF. Since that time our efforts have been extremely successful. Several hundred investigative and intelligence operations have been conducted with numerous arrests.

An area in which the State of Florida and the RSDTF extended considerable energy prior to establishing this program, was in communicating with the various ethnic groups regarding concerns. This program received considerable publicity in Florida during its development in part because this was a new concept, but also due to Florida's highly diverse population. Many immigrant groups expressed significant concerns related to any INS authority being delegated to state and local officers. In conjunction with the Office of the Governor, the RSDTF's and INS/ICE extended considerable effort in communicating exactly what our intentions were with this program to many ethnic groups including Hispanic and Haitian. In addition, we have visited many religious groups to include Christian, Jewish and Muslim. We also did not miss an opportunity to speak with the news media including print, radio and television in reassuring those with concerns of our program intent. I am proud to say in my own area, while significant concerns were expressed particularly by groups representing seasonal workers at the duration of our Cross Designation project, we have stuck to the spirit and letter of our Memorandum of Understanding. There have been no situations where fields have been raided, labor camps infiltrated, nor would such be tolerated. As of today, not one formal complaint has been filed with FDLE, related to this program.

The reorganization of a number of federal agencies including INS into the Department of Homeland Security has had some negative impact on our Cross Designation Program. Not only has the Department of Homeland Security undertaken the massive responsibility of deciding appropriate roles and relationships within its structure, the Florida Department of Law Enforcement itself in October 2003 received a new Executive Director, Commissioner Guy Tunnell. During the months between September and December 2003, no action could be taken by our Cross Designated agents, as the Memorandum of Understanding had not been renewed, and was under review. In addition, through normal attrition and promotions, a number of our original Cross Designated agents have been reassigned and are no longer a part of the program.

Florida has strongly supported an additional Cross Designated class and could easily support an additional 35 Cross Designated agents. In addition, it has been our experience again in part due to the reorganization of INS/ICE that the seven originally assigned INS/ICE supervisors, have for the most part now received significant additional responsibilities at their home agencies, taking them away from our RSDTF efforts. The hiatus experienced in renewing the agreement coupled with the reorganization of INS/ICE threatened to cause this valuable and important program to drift into merely "standby" status--used only when an emergency prompted a need for the use of the specially designated state and local officers. From Florida's perspective, and indeed from Washington's, this was not what anyone wanted to occur.

Three weeks ago, members of FDLE to include Commissioner Tunnell, several regional directors, the FDLE office of Statewide Intelligence, Collier County Florida Sheriff Don Hunter and others met with ICE representatives from Washington and Tampa Bay to work on these issues. The outcomes are still under review. The ICE renewed its commitment to making the continued project an ongoing and proactive effort, and to prevent it from becoming simply a "stand-by" program. ICE has agreed to renew its supervisory commitment to the Regional Domestic Security Task Forces under the terms of the Memorandum of Understanding.

In addition, FDLE and ICE have agreed to support another Cross Designation class, which will provide additional Cross Designated state and local officers in support of our efforts and fill the few vacancies that have developed in the initial group of 35 officers trained in this project.

In closing, Florida strongly supports the continuation of the 287(g) Cross Designation Program. We believe this authority provides a strong force multiplier for our federal partners and our collective efforts to limit the possibility of another terrorist attack. We remain ready and willing to assist our federal partners in these efforts. By remaining committed to our use of the trained personnel in domestic security related investigative efforts, we are assuring that these highly trained officers will be put to the best use--thereby better protecting Florida and the nation.

Again, thank you for this tremendous opportunity and I look forward to your questions.